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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,819	04/28/2005	Rauscher Guenther	30071/40493	6563
4743 7590 10/13/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER SINGH, KAVEL	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 10/13/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/511,819

**Applicant(s)**

GUENTHER, RAUSCHER

**Examiner**

KAVEL P. SINGH

**Art Unit**

3651

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-23, 25, 26 and 29-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-22, 25, 26 and 29-54 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/1/09 has been entered.

### ***Response to Arguments***

The rejection under 35 U.S.C. 112, first paragraph to claims 1 and 25 has been withdrawn.

Applicant's arguments with respect to claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 1,11,25, and 35, the limitation include a controls means which in the specification is defined as a controller or compressed air (as how it was interpreted). Please clarify or is 35 U.S.C. 112, sixth paragraph being invoked?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5,6,7,11,12,25,26,29,30,31,35,36, and 46 are rejected under 35

U.S.C. 102(b) as being anticipated by Trenel U.S. Patent No. 6,368,027.

Claim 1, Trenel teaches at least one guide railing 5,28 which is adjustable along an adjustment pathway C4 L25-26 across a direction of conveyance and is operable by at least one actuator drive 11, and a plurality of movable stops 21 that are optionally introducible at one or more preset positions (extended and not extended) in the adjustment pathway of the guide railing 6,28 to delimit the at least one guide railing 6,28 and define various railing positions C4 L25-26, at least one of the movable stops 21 disposed within a cylinder housing 22 that is disposed at a right angle to the actuator drive Fig. 3, and control means (via 22 the actuating of air) for moving the movable stop 21 in the cylinder housing 22 between a position of readiness outside of the adjustment pathway and a working position inside the adjustment pathway for delimiting the adjustment of the guide railing 6,28 C6 L62-65.

Claims 2 and 26, Trenel teaches at least two stops 21 are provided Fig. 3 (one on each side).

Claims 5 and 29, Trenel teaches wherein the actuator drive 11 includes one opposing stop 12 operably connected to the guide railing 6, and which can be brought into contact with the plurality of stops 21 (via the bottle) and follows the adjusting movement arranged on one of the guide railing 6,28 or the actuator drive 11.

Claims 6 and 30, Trenel teaches wherein the opposing stop 12 has at least two stop faces facing away from one another as based on the adjustment pathway Fig. 3.

Claim 7, Trenel teaches wherein the actuator drive 11,22 is a linear drive 11,22 (cylinder

in linear motion) and the preset positions (extended and not extended) are assigned to the linear drive.

Claims 11 and 35, Trenel teaches each of the plurality of stops 12,21 comprises a pneumatic cylinder 22 are designed as that can be operated by the control means (via the cylinder).

Claims 12 and 36, Trenel teaches the stops 12,21 can be screwed into threaded bores in the stop mount Fig. 3 (nut shown therefore having threads).

Claims 13,31and 46, Trenel teaches the preset positions (extended and not extended) assigned to the linear drive 11,22 comprises a stop mount 12,21 attached to the cylinder element 11' of the pneumatic cylinder in the axial direction Fig. 3.

Claim 25, Trenel teaches a stop body (part of 11,22) defining an adjustment path C4 L25-26 for at least one of the guide railings 6,28, and a plurality of preset positions (extended and not extended) in the adjustment path; and a plurality of movable stops 12,21 which can be arranged in the preset positions (extended and not extended) and can be moved the adjustment path of the stop body (part of 11) to delineate the adjustment path, at least one of the movable stops 12,21 disposed within a cylinder housing 22 that is disposed at a right angle to the stop body (part of 22), and control means (via the cylinder) for moving the movable stop in the cylinder housing 22 between a position of readiness outside of the adjustment path and a working position inside the adjustment path for delimiting the adjustment of the guide railing 6.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,8,9,14,15,16,18,19,20,22,32,33,37,38,39,40,42,44,48,50,51, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trelen U.S. Patent No.

6,368,027 in view of Aidlin U.S. Patent No. 5,542,789

Claims 7,8,9,32, and 33, Aidlin teaches the preset positions (Fig. 7-10) are designed in the form of recesses and are designed in the form of multiple bores in the stop mount (A) set along the adjustment pathways in the axial direction (Fig. 1).

Claim, 14 and 38, Aidlin teaches bore (50) is arranged coaxially with the piston rod (46) and the piston rod passes at least partially through the bore.

Claims 15,37, and 40, Aidlin teaches the inside diameter of the bore (50) is greater than the outside diameter of the piston rod (46), thus forming an annular space (Fig. 1) (C5 L13-15 essentially equal so can be interpreted to be greater or equal).

Claims 16,39, and 51, Aidlin teaches the bores (50,62) for accommodating the stops (48) are assigned to the annular space so that the stops (48) pass through the annular space approximately at a right angle to the its longitudinal extent of the annular space when in an engaged or working position.

Claims 18,19, and 42, Aidlin teaches the opposing stop is attached to the piston rod (46) and is guided in the interior of the stop mount.

Claim 20, Aidlin teaches the adjustable guide railings (42) are arranged so they run opposite one another in pairs and parallel to the direction of conveyance conveyor with a distance between the pairs them (Fig. 1).

Claims 21,22, and 50, Aidlin teaches the products (12) to be transported, have a collar (20) by means of which they are transported suspended on two parallel sliding rails (26) which run with a distance there between and are conveyed as suspended items beneath an air guide box (36).

Claim 44, Aidlin teaches the guide railing (42) is operable so that it is adjustable in height by at least one actuator drive (60) longitudinally to the vertical axis of the products being conveyed, with stops (48) which may optionally be arranged in the adjustment path at multiple preset positions (Fig. 7-10) and delineate said path on the vertical adjustment path of the guide railing (42) or the at least one actuator drive (60) and thereby define various railing positions (Fig. 1).

Claims 48 and 52, Aidlin teaches the four of the multiple bores in the stop mount comprises at least two rows with an arrangement of bores (50,62) offset in the axial direction of the stop mount (C5 L25-28).

Claims 10,17,34,41,4749, and 53are rejected under 35 U.S.C. 103(a) as being unpatentable over Trenel U.S. Patent No. 6,368,027 in view of Leonard U.S. Patent No. 6,305,528.

Claims 10,17,34,41,47, and 49, Trenel teaches the stops (12,21), but not as Leonard teaches are designed as one of form-fitting screw or screw elements (102,104). It would have been obvious to one of ordinary skill in the art at the time of the invention to

use form-fitting screws as taught by Leonard into the invention of Trenel in order to securely fasten the stop to the article.

Claim 53, Trenel teaches the stops 12 are designed as pins Fig. 3.

Claims 31,45,53, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trenel U.S. Patent No. 6,368,027 in view of Ouellette U.S. Patent No. 6,318,935.

Claims 31,45, and 54, Trenel teaches preset positions (extended and not extended) are assigned to the linear drive 11,22 and formed as a stop mount 12,21 attached to the cylinder 11,22 element of the pneumatic cylinder (11,22) in the axial direction the linear drive, but does not teach as Ouellette is a double-acting pneumatic cylinder (122) having a cylinder element which has a cylinder body (122) and a piston rod (124) (C8 L39-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to a double-acting cylinder as taught by Ouellette into the invention of Aildin in order to have extra control over the stop and securely fasten the article in the cylinder.

### ***Allowable Subject Matter***

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651